

13 HIGHLY CONFIDENTIAL

14 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

16 VIDEOTAPED DEPOSITION OF  
17 ELLEN WILSON

19 January 24, 2019

21 Indianapolis Indiana

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5                   The videotaped deposition of ELLEN WILSON,

6        called by the Plaintiffs for examination, taken

7        pursuant to the Federal Rules of Civil Procedure of

8        the United States District Courts pertaining to the

9        taking of depositions, taken before JULIANA F.

10      ZAJICEK, a Registered Professional Reporter and a

11      Certified Shorthand Reporter, at the Indianapolis

12      Marriott Downtown, Texas Room, 350 West Maryland

13      Street, Indianapolis, Indiana, on January 24, 2019, at

14      4:40 p.m.

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ALSO PRESENT:

21

KAITLYN EEKHOFF, Law Clerk,  
22 Motley Rice LLC

23 THE VIDEOGRAPHER:

24 MR. ANTHONY MICHELETTO,  
Golkow Litigation Services.

1

I N D E X

2

3 WITNESS:

PAGE:

4 ELLEN WILSON

5 EXAM BY MR. GOETZ.....

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7 \* \* \* \* \*

8

9 E X H I B I T S

10 CVS - WILSON EXHIBIT MARKED FOR ID

11 No. 1 Handwritten drawing 87

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1                   THE VIDEOGRAPHER: We are now on the record. My  
2 name is Anthony Micheletto. I am a legal vid --  
3 videographer for Golkow Litigation Services.

4                   Today's date is January 24th, 2019. The  
5 time is 4:40 p.m. as indicated on the video screen.

6                   This video deposition is being held in  
7 Indianapolis, Indiana, in the matter of In Re National  
8 Prescription Opiate Litigation, before the  
9 United States District Court for the Northern District  
10 of Ohio, Eastern Division.

11                  Our deponent is Ellen Wilson.

12                  Will counsel please identify yourselves  
13 for the video record.

14                  MR. GOETZ: Dan Goetz for the Plaintiffs.

15                  MR. ELSNER: Michael Elsner for the Plaintiffs.

16                  MS. HARMON: Sarah Harmon for Cardinal Health.

17                  MR. CLARK: Miles Clark for Zuckerman Spaeder on  
18 behalf of CVS Indiana, LLC, CVS RX Services, Inc., and  
19 the witness.

20                  MR. HYNES: Paul Hynes from Zuckerman Spaeder,  
21 LLP, on behalf of CVS Rx Services, Inc., CVS Indiana,  
22 LLC, and the witness.

23                  THE VIDEOGRAPHER: Our court reporter today is  
24 Juliana Zajicek.

1                   Please swear in the witness.

2                 MS. MCINTYRE: Do you -- do you want to know who  
3                 is on the phone?

4                 THE VIDEOGRAPHER: Yes, please.

5                 MS. MCINTYRE: This is Jill McIntyre from  
6                 Jackson Kelly on behalf of AmerisourceBergen Drug  
7                 Corporation.

8                 MS. PROROK: And this is Christine Prorok from  
9                 Jones Day on behalf of Walmart.

10                 (WHEREUPON, the witness was duly  
11                 sworn.)

12                 ELLEN WILSON,  
13                 called as a witness herein, having been first duly  
14                 sworn, was examined and testified as follows:

15                   EXAMINATION

16                 BY MR. GOETZ:

17                 Q.         Ms. Wilson, my name is Dan Goetz, and we  
18                 met briefly before this.

19                 It is my understanding you had a death in  
20                 the family recently, correct?

21                 A.         Correct.

22                 Q.         I -- I can't tell you how much I  
23                 appreciate you changing your schedule and being here  
24                 today and accommodating us.

1                   And you also have a hard stop at 6:30,  
2 correct?

3                   A.       Yes.

4                   Q.       Okay. We will do our best to be done and  
5 if we are not done, then we'll figure out some way to  
6 continue this testimony, okay?

7                   A.       Okay.

8                   Q.       What is -- if I ask you a question and you  
9 don't understand it, please tell me.

10                  A.       Okay.

11                  Q.       And -- and I will rephrase it.

12                  And by the same token, if you answer the  
13 question, I'll assume you understood it.

14                  Fair enough?

15                  A.       Yes.

16                  Q.       How far did you go in school?

17                  A.       Just Grade 12.

18                  Q.       Okay.

19                  A.       12th grade.

20                  Q.       I --

21                  A.       Can you not hear me?

22                  Q.       Because of the fan being right over me,  
23 I -- I might need you to speak up a little.

24                  A.       Okay.

1 Q. To 12th grade?

2 A. True.

3 Q. And when did you graduate?

4 A. 1989.

5 Q. And after you graduated, where did you go  
6 work?

7 A. After high school?

8 Q. Yes.

9 A. I had my daughter, so I didn't work.

10 Q. Okay. What was your first job after high  
11 school?

12 A. Phar-Mor.

13 Q. And -- and what did you do at Phar-Mor?

14 A. I was a cash register -- cashier.

15 Q. And -- and how long were you there for?

16 A. About three years.

17 Q. And from when to when?

18 A. From '9 -- I had her in '90, so that would  
19 be '91 to '94.

20 Q. And what did you do after Phar-Mor?

21 A. While I was still at Phar-Mor, I went to  
22 C -- or it would have been Hooks at -- in '93.

23 Q. And what did you do at Hooks?

24 A. I went to -- I started out in Flow 2 as a

1       order filler for probably six months and then I went  
2       up to the Rx department.

3           Q.       And Hooks, that facility eventually became  
4       a CVS facility, is that correct?

5           A.       Yes, it was. It went from Hooks to Revco  
6       to CVS.

7           Q.       And -- and when did it become a CVS  
8       facility?

9           A.       I'm not sure.

10          Q.       Do you have an idea?

11          A.       No.

12          Q.       Okay. And in '93 when you went to Hooks  
13       Drugs and you said you were a Flow 2 order filler?

14          A.       Yes.

15          Q.       What is that, just briefly?

16          A.       It was a flow module that held toothpaste,  
17       tooth brushes, mouth wash, shampoo. That was it. I  
18       think that was it.

19          Q.       And -- and then you said you went to R --  
20       the Rx department?

21          A.       The Rx department, yes.

22          Q.       Does that mean you were in the cage?

23          A.       No. I started out in one of the flow --  
24       one of the picking aisles in -- up in Rx.

1 Q. And how long were you there?

2 A. In the Rx department?

3 Q. Yes.

4 A. From '93 until six months ago.

5 Q. What happened six months ago?

6 A. I went to inventory control.

7 Q. There is a controlled substances cage at  
8 the CVS Indiana distribution warehouse?

9 A. Yes.

10 Q. Okay. When did you start working in that  
11 cage?

12 A. In '96, December of '96.

13 Q. And you worked in that cage until when?

14 A. Six months ago.

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24 BY MR. GOETZ:

1 Q. How long did you work with Charlotte  
2 Rucker after she trained you?

3 A. Two months. Probably two months because  
4 she retired.

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19 BY MR. GOETZ:

20 Q. First, who was your supervisor in 2006?

21 A. Steve -- I believe it was Steve Campbell.  
22 Steve -- we had two supervisors, Steve Campbell and  
23 Robert Richardson.

24 Q. And who was the supervisor in 2007?

1           A.       I'm not sure what year Steve left the  
2       company, but then we went to Gary Lamberth and Dan  
3       Deaton.

4           Q.       And how long were they your supervisor?

5           A.       Gary Lamberth was from, I'm not sure  
6       exactly when he started there, but he recently left  
7       the company.

8           Q.       Was -- was Gary Lamberth your supervisor  
9       from around 2007 through September of 2014?

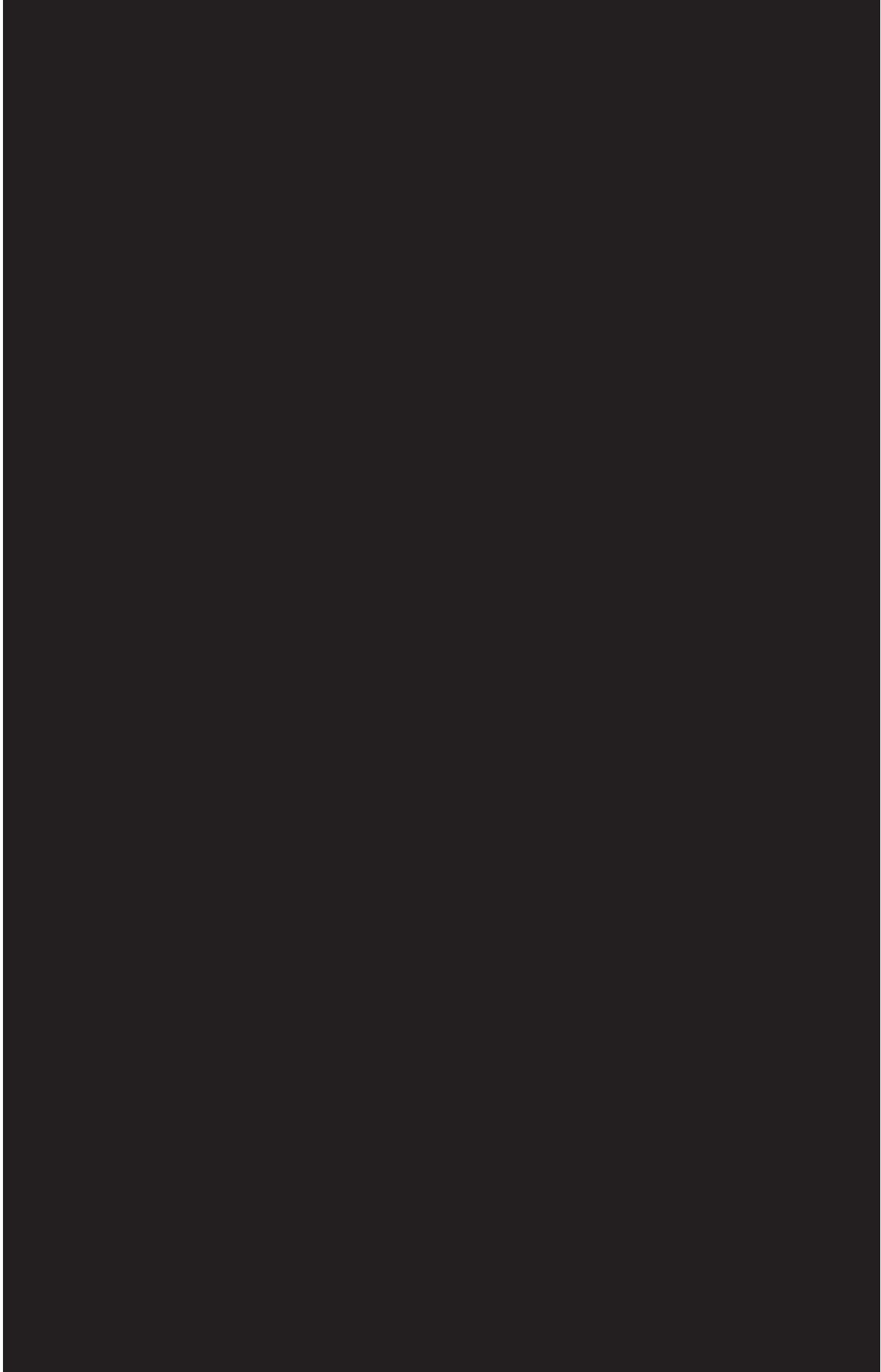
10          A.       I believe so.

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21           Q.       Other than Sherri Hinkle -- do you know  
22        who Sherri Hinkle is?

23           A.       Yes.

24           Q.       Who is that?

1 A. That is the Rx inventory control girl.

2 Q. And -- and what does that mean?

3 A. She would -- for us in the cage, it would

4 mean she is the girl that we would go to if we had any

5 problems as far as, like, the quantity, that some --

6 that one of the stores ordered, we would go to her, if

7 we had an out, we would go to her.

8 Q. Well, did she -- was she also a picker?

9 A. No.

10 Q. No.

11 Would -- did she do -- check the totes?

12 A. No.

13 Q. So she -- was she in the cage?

14 A. No.

15 Q. No.

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1 [REDACTED]

2 Q. All right. But -- but from '06 to '14,  
3 you never remember her as a picker or a packer?

4 A. No.

5 Q. How often in 2000 -- what was -- was  
6 Sherri there from 2006 to 2014?

7 A. Yes.

8 Q. And was she serving that role of Rx  
9 inventory control?

10 A. Yes.

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

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18           Q.       In 2006, what were the names of the people  
19       in the cage?

20           A.       I don't know.

21           Q.       What about in 2007?

22           A.       I don't know.

23           Q.       What about in 2008?

24           A.       I don't know.

1 Q. What about in 2010?

2 A. I don't know.

3 Q. 2011?

4 A. I don't know.

5 Q. You can't -- you don't remember anybody's  
6 name.

7 What about in 2012?

8 A. Lori Huddleston. Lori Huddleston.

9 Q. In 2012?

10 A. Yes.

11 Q. What did Lori do?

12 A. She either packed or picked the orders  
13 like I did.

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22 Q. What about in 2013, do you remember  
23 anybody in the cage?

24 A. Lori Huddleston.

1 Q. Anybody else?

2 A. I don't remember.

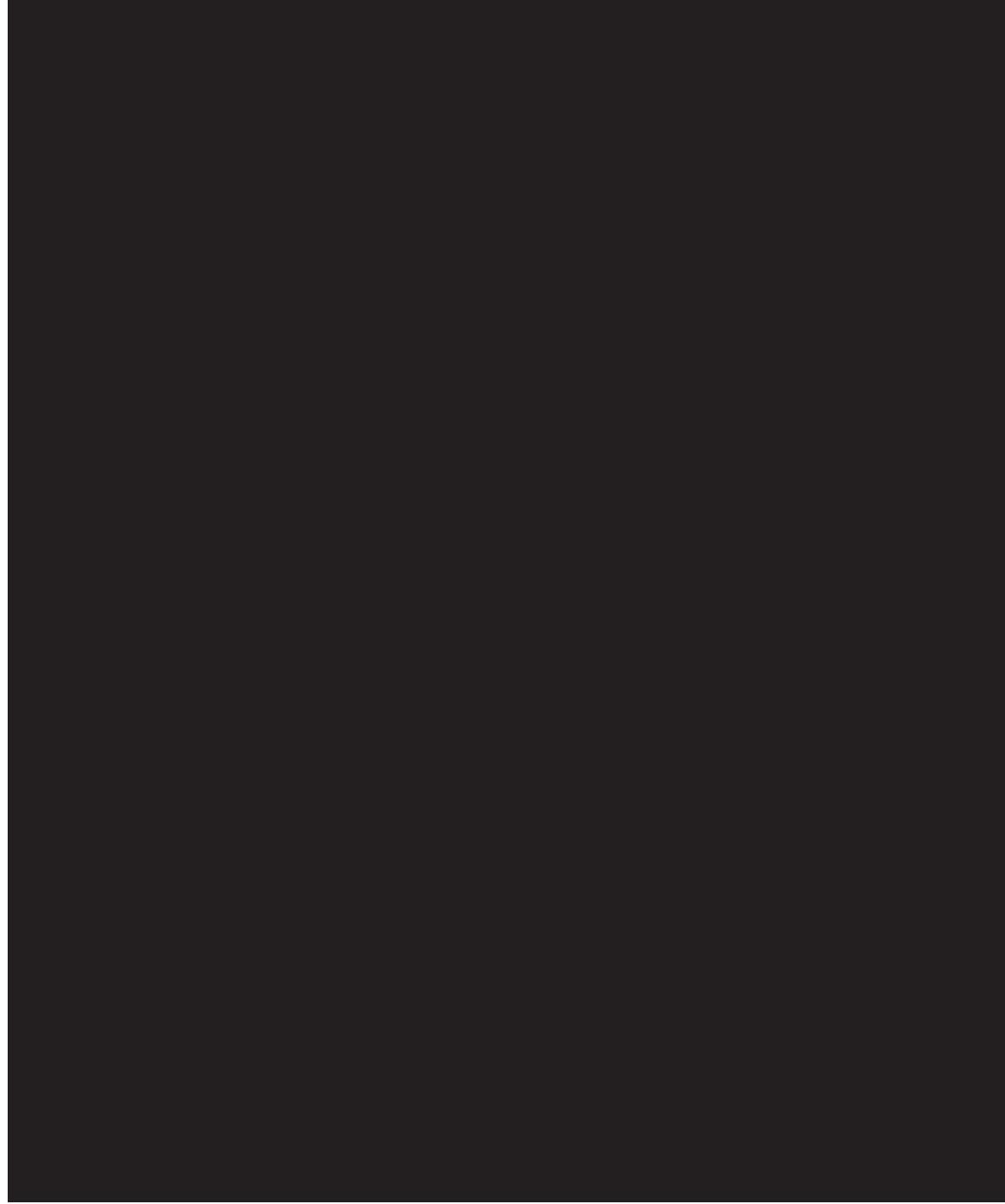
3 Q. What about in 2014?

4 A. Lori Huddleston.

5 Q. Anybody else?

6 A. I don't remember.

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14           Q.       Ms. Wilson, I -- I really do appreciate  
15        you being here, and -- and so please don't take this  
16        as disrespectful, and I know you've had a really hard  
17        week. We are trying to figure out what the pickers  
18        and packers did as it relates to suspicious order  
19        monitoring, and so I'm curious if -- if there would be  
20        anybody that would actually have, if you know, anybody  
21        that -- from 2006 to '14 would actually have a -- a  
22        better memory of what was happening --

23           MR. HYNES: Objection.

24        BY MR. GOETZ:

1 Q. -- at that time.

2 A. I don't know.

3 Q. Okay. Did you speak to anybody other than  
4 your counsel about today's testimony?

5 A. No.

6 MR. HYNES: Objection to form.

7 BY MR. GOETZ:

8 Q. You didn't talk to your spouse?

9 A. No.

10 Q. You didn't talk to anybody at work about  
11 this testimony?

12 A. No.

13 Q. Did -- did you prepare for today's  
14 testimony?

15 A. Just talked to him.

16 Q. And -- and how long did you talk to him?

17 A. A couple of hours yesterday and a couple  
18 of hours today.

19 Q. And -- and any -- any other time?

20 A. No.

21 Q. Did you review documents?

22 A. No.

23 Q. How many days per week would you work in  
24 2006?

1 A. Five.

2 Q. And -- and how many hours per day?

3 A. Eight hours.

4 Q. And was that pretty much consistent from  
5 2006 to 2014?

6 A. Yes.

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18           Q.       Do you know when Deborah Foster left the  
19           cage?

20           A.       She retired in 2018.

21           Q.       Do you know where Deborah Foster lives?

22           A.       I have a general idea. I don't know the  
23           exact address.

24           Q.       Can you give me the city?

1 A. Indianapolis.

2 Q. Do you have an estimate how long you were  
3 in the cage with Deborah Foster?

4 MR. HYNES: Objection to form.

5 BY THE WITNESS:

6 A. I don't -- I don't remember. I don't  
7 know.

8 BY MR. GOETZ:

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13 BY MR. GOETZ:

14 Q. Between 2006 and 2018, did the activity of  
15 the cage change, in other words, if we were to see a  
16 video today of what the cage looks like, would that be  
17 pretty similar to what it looked like in 2006?

18 MR. HYNES: Objection to form.

19 BY THE WITNESS:

20 A. You want to know if the cage looks like it  
21 did now -- from 2006 to now?

22 BY MR. GOETZ:

23 Q. No, ma'am.

24 So you just left the cage?

1 A. Yes.

2 Q. Six months ago, correct?

3 A. Yes.

4 Q. If we were to see a video of what that  
5 cage looked like six months ago, the activity, because  
6 they were recording it, the activity of what the cage  
7 looked like, the speed with which you had to pick,  
8 would -- would that -- would that be similar to what  
9 we would see if we had video from 2006?

10 MR. HYNES: Objection to form.

11 BY THE WITNESS:

12 A. I don't know.

13 BY MR. GOETZ:

14 Q. Your job stayed pretty much the same,  
15 correct?

16 A. Yes.

17 Q. Okay. The speed with which you picked  
18 stayed pretty much the same, correct?

19 A. Yes.

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12 MR. HYNES: Objection to form.

13 BY MR. GOETZ:

14 Q. When you were looking for -- strike that.

15 MR. GOETZ: May I have -- can you put up  
16 Exhibit 6.

17 I only have one copy of this and it was  
18 marked Exhibit 6 yesterday for Dugger. Okay?

19 MR. HYNES: Okay.

20 MR. GOETZ: I'm just going to ask her a couple  
21 of questions about it.

22 MR. HYNES: That's fine. That's fine.

23 This is the same document.

24 Do you want to direct her to a particular

1 page or --

2 BY MR. GOETZ:

3 Q. Well, I just -- first, could you go to  
4 the -- I've handed you what's been marked as Exhibit 6  
5 for Dugger. We --

6 Do you know Terrence Dugger?

7 A. Yes.

8 Q. And you worked with him?

9 A. I knew him.

10 Q. Did --

11 A. I didn't have very much contact with him.

12 Q. Okay. Could you turn to 88957, the next  
13 page.

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5 Q. Okay. Could you turn to 88996.

6 THE WITNESS: Yeah, I got makeup in my eye.

7 MR. HYNES: Do you want to take a break?

8 MR. GOETZ: Do you want to take a break?

9 THE WITNESS: Yes.

10 MR. HYNES: She has something in her eye. Let's  
11 take a quick break. I'm sorry, Dan.

12 MR. GOETZ: That's all right.

13 THE VIDEOGRAPHER: We are off the record at  
14 5:29 p.m.

15 (WHEREUPON, a recess was had  
16 from 5:29 to 5:39 p.m.)

17 THE VIDEOGRAPHER: We are back on the record at  
18 5:39 p.m.

19 BY MR. GOETZ:

20 Q. Are you better?

21 A. I think so.

22 Q. If you need to take a break at any time,  
23 let me know, okay?

24 A. Okay.

1 Q. You should not be miserable, all right?

2 So --

3 A. Okay.

4 Q. -- even if a question is pending and  
5 your -- your eyes are hurting, let me know, okay.

6 A. Okay.

7 Q. I don't want to know what you talked about  
8 with Mr. Hynes, but do you have an understanding of --  
9 of why you are here testifying today?

10 A. Yes.

11 Q. All right. And what is that  
12 understanding, and I don't want to know what Mr. Hynes  
13 told you, but generally what is that understanding?

14 A. You just want to know what I did or do in  
15 the cage, the -- the order -- the process of ordering  
16 and the process of scanning and who I go to if I was  
17 to have a problem with some of the orders, if I see  
18 something is too big, who I go to.

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11 Q. Let me ask you a question because this is  
12 actually important.

13 You said that you would go to Ms. Hinkle  
14 if an order was too big, correct?

15 A. Yes.

16 Q. You would alert her?

17 A. Yes.

18 Q. So you would have to make that judgment,  
19 correct?

20 A. Yes.

21 Q. How would you make that judgment?

22 MR. HYNES: Objection to form.

23 BY THE WITNESS:

24 A. When you're in there day in and day out

1 you just know when an order is too big.

2 BY MR. GOETZ:

3 Q. Mr. Milikan testified it was a gut  
4 feeling?

5 A. Yes.

6 MR. HYNES: Objection.

7 BY MR. GOETZ:

8 Q. Would you agree it's a gut feeling?

9 A. Yes.

10 Q. Okay. And I appreciate that, but  
11 unfortunately we are going to have to explain to  
12 experts and a jury what that means.

13 So what does that mean, that gut feeling?

14 MR. HYNES: Objection to form.

15 BY THE WITNESS:

16 A. You just know after you're in there day in  
17 and day out what's a big number. Like if they are  
18 ordering, like, five, five, five and then all of a  
19 sudden there is 150, that's a red flag.

20 BY MR. GOETZ:

21 Q. When you say "they are ordering" --

22 A. The --

23 Q. -- "five, five, five"?

24 A. On the pick document, if it says --

1       every -- every item in that cage they want five and  
2       then all of a sudden it shoots up to, like, 150, that  
3       would be a red flag.

4           Q.       Okay. So if -- if they want five  
5       Amoxicillin and then 150 hydro, that's a problem.

6           Is that what I'm hearing you say?

7           A.       Amoxicillin is not in the cage.

8           Q.       So what is in the cage? You talked about  
9       testosterone.

10          A.       Testosterone.

11          Q.       If they want five units of -- of  
12       testosterone and 150 of hydro, that to you is a sign  
13       there is a problem?

14          A.       Yes.



19          A.       Charlotte Rucker, when she trained me, she  
20       said as -- we have three different size bottles of  
21       hydrocodone in the cage. She said, As a rule you send  
22       out 12 -- no more than 12 of the little ones, six of  
23       the big ones and two to three of the bigger -- the  
24       large size ones as a rule across the board.

1 BY MR. GOETZ:

2 Q. And that was in 1996?

3 A. Yes.

4 Q. And did you live by that rule for the --  
5 for the remainder of your time there?

6 A. Yes.

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5 BY MR. GOETZ:

6 Q. Could you turn to Exhibit 6, please.

7 MR. HYNES: Is this the one you handed to us  
8 before, Dan?

9 MR. GOETZ: Yeah, yes.

10 MR. HYNES: Is there a page number you want us  
11 to go to?

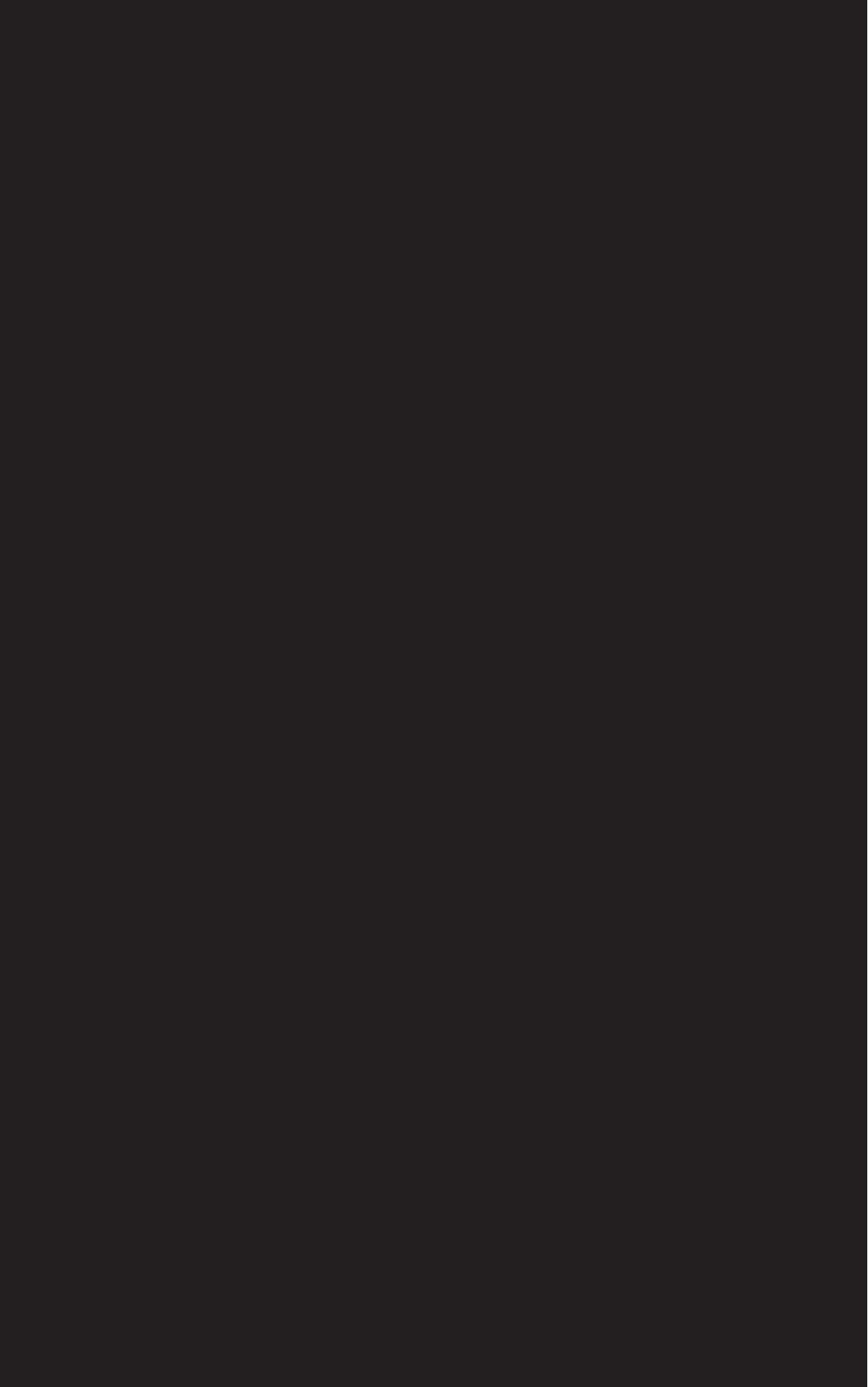
12 MR. GOETZ: Could you look at 88996, please.

13 MR. HYNES: Okay. We are there.

14 BY MR. GOETZ:

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16 MR. GOETZ: Let's take a break.

17 MR. HYNES: Okay.

18 THE VIDEOGRAPHER: We are off the record at  
19 5:59 p.m.

20 (WHEREUPON, a recess was had  
21 from 5:59 to 6:07 p.m.)

22 THE VIDEOGRAPHER: We are back on the record at  
23 6:07 p.m.

24 BY MR. GOETZ:

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21           Q.        Okay. You went and moved to inventory  
22           control about six months ago?

23           A.        Yes.

24           Q.        And -- and what does that mean in your new

1 job?

2 A. Inventory control is -- I work actually in  
3 the twilight area and that's where -- if boxes get  
4 lost somewhere in the warehouse, they bring them to  
5 the twilight and then it is my job to find out where  
6 they actually go, whether they go to the reserve or to  
7 the picking location.

8 Q. So are -- are you in inventory control for  
9 the entire distribution center?

10 A. Yes.

11 Q. So it's not -- it's not just related to  
12 controlled substances?

13 A. No, I don't work in the Rx anymore.

14 Q. And that distribution center distributes  
15 products for the entirety of CVS, the front of the  
16 store and the back of the store, correct?

17 A. Yes.

18 Q. So toothpaste, toilet paper, candy bars,  
19 all of that?

20 A. Yes.

21 MR. GOETZ: That is all I have. Thank you for  
22 your time.

23 THE WITNESS: Thank you.

24 MR. GOETZ: And thank you for coming today.

1 THE WITNESS: Thank you.

2 MR. HYNES: Thank you.

3 MR. GOETZ: Good luck.

4 THE VIDEOGRAPHER: We are off the record at  
5 6:09 p.m. This concludes the videotape deposition of  
6 Ellen Wilson.

7 (WHEREUPON, discussion was had  
8 off the record.)

9 (WHEREUPON, the following proceedings  
10 were had on the stenographic record  
11 only:)

12 BY MR. GOETZ:

13 Q. Ms. Wilson, is this the drawing you made?

14 A. Yes.

15 Q. We are going to mark this as Wilson  
16 Exhibit 1, okay?

17 A. Yes.

18 (WHEREUPON, a certain document was  
19 marked CVS - Wilson Deposition  
20 Exhibit No. 1, for identification, as  
21 of 01/24/2019.)

22 MR. GOETZ: Okay. Thank you.

23 (Time Noted: 6:10 p.m.)

24 FURTHER DEPONENT SAITH NAUGHT.

1

REPORTER'S CERTIFICATE

2

3 I, JULIANA F. ZAJICEK, C.S.R. No. 84-2604,

4 a Certified Shorthand Reporter, do hereby certify:

5 That previous to the commencement of the

6 examination of the witness herein, the witness was

7 duly sworn to testify the whole truth concerning the

8 matters herein;

9 That the foregoing deposition transcript

10 was reported stenographically by me, was thereafter

11 reduced to typewriting under my personal direction and

12 constitutes a true record of the testimony given and

13 the proceedings had;

14 That the said deposition was taken before

15 me at the time and place specified;

16 That I am not a relative or employee or

17 attorney or counsel, nor a relative or employee of

18 such attorney or counsel for any of the parties

19 hereto, nor interested directly or indirectly in the

20 outcome of this action.

21 IN WITNESS WHEREOF, I do hereunto set my

22 hand on this 28th day of January, 2019.

23

24 JULIANA F. ZAJICEK, Certified Reporter

1 DEPOSITION ERRATA SHEET

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4 Case Caption: In Re: National Prescription  
5 Opiate Litigation

6

7 DECLARATION UNDER PENALTY OF PERJURY

8

9 I declare under penalty of perjury that I  
10 have read the entire transcript of my Deposition taken  
11 in the captioned matter or the same has been read to  
12 me, and the same is true and accurate, save and except  
13 for changes and/or corrections, if any, as indicated  
14 by me on the DEPOSITION ERRATA SHEET hereof, with the  
15 understanding that I offer these changes as if still  
16 under oath.

17

18 ELLEN WILSON

19

20 SUBSCRIBED AND SWORN TO

21 before me this day

22 of , A.D. 20\_\_\_.  
23

24 Notary Public

1 DEPOSITION ERRATA SHEET

2 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

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24 ELLEN WILSON

1 DEPOSITION ERRATA SHEET

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24 ELLEN WILSON